

**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO ALLOW THE DEFENSE
TO ARGUE LAST AT THE PENALTY
PHASE

Defendant's "Motion to Allow the Defense to Argue Last at the Penalty Phase" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion.

DATED:

9/6/02

Dr. M. Stuart

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO COMPEL DISCLOSURE
OF PROSECUTING ATTORNEY'S
JURY SELECTION DATA

Defendant's "Motion to Compel Disclosure of Prosecuting Attorney's Jury Selection Data" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion as such disclosure is not required by the Ohio Criminal Rules relating to discovery..

DATED: 9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

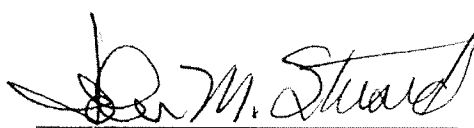
JUDGMENT ENTRY

MOTION TO PROHIBIT DEATH-
QUALIFICATION OF JURY: IN THE
ALTERNATIVE, IF NECESSARY,
TO SEAT A SEPARATE JURY
DURING PENALTY PHASE OF
THE TRIAL

Defendant's "Motion to Prohibit Death-Qualification of Jury In the Alternative, if Necessary, to Seat a Separate Jury During Penalty Phase of the Trial" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion.

DATED: 9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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593

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	
)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION FOR DISCLOSURE OF ANY
	)	AND ALL AGREEMENTS AND/OR
Defendant	)	BENEFITS AND/OR DEALS
	)	INVOLVING PROSECUTING
	)	WITNESSES

"Defendant's Motion for Disclosure of Any and All Agreements and/or Benefits and/or 'Deals' Involving Prosecuting Witnesses" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion. To the extent that such information is subject to the requirements of Ohio Criminal Rule 16 and Brady v. Maryland (1963), 373 U.S. 83, the State will provide to the defense any such information which comes into its possession.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant.

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

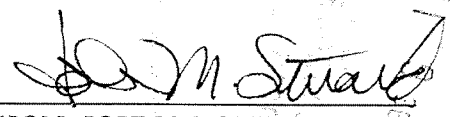
JUDGMENT ENTRY

DEFENDANT'S MOTION REGARDING
(A) NO COMMENTS ON DEFENSE
WITNESS LIST; (B) NO COMMENTS
ON THE FACT THAT DEFENSE
EXPERTS

Defendant's "Defendant's Motion Regarding (A) No Comments on Defense Witness List; (B) No Comments on the Fact That Defense Experts Did Not Produce Written Reports; and (C) No Comments on Costs Connected with Defense Expert" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion as to part (A), but DENIES Defendant's Motion as to parts (B) and (C).

DATED: 9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

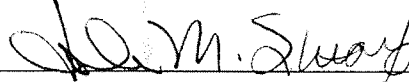
MOTION TO PROHIBIT
REFERENCES TO THE JURY AT
ANY POINT IN THESE
PROCEEDINGS THAT A VERDICT
AS TO DEATH IS ONLY A
RECOMMENDATION IN THE
ALTERNATIVE MOTION TO
PROHIBIT REFERENCES TO THE
BINDING OR NON-BINDING
NATURE OF THE JURY'S
DETERMINATION

Defendant's "Motion to Prohibit References to the Jury, at any Point in These Proceedings, that a Verdict as to Death is only a Recommendation, in the Alternative, Motion to Prohibit References to the Binding or Non-Binding Nature of the Jury's Determination" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion to the Extent that the State may make appropriate statements of law; misstatements of law or otherwise improper comments will be subject to objection.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION FOR PENALTY PHASE
JURY INSTRUCTION
RESPECTING ORDER OF
DELIBERATIONS AND LACK OF
NECESSITY TO FIRST AGREE
UNANIMOUSLY ON A VERDICT
OF DEATH

Defendant's "Motion for Penalty Phase Jury Instruction Respecting Order of Deliberations and Lack of Necessity to First Agree Unanimously on a Verdict of Death" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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0981 532

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

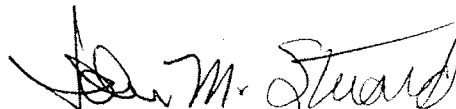
JUDGMENT ENTRY

MOTION FOR AN ORDER
DIRECTING THAT A COMPLETE
COPY BE MADE AND TURNED
OVER TO THE COURT FOR REVIEW
AND TO BE SEALED FOR
APPELLATE REVIEW

“Defendant’s Motion for an Order Directing that a Complete Copy of the Prosecutor’s File be made and Turned Over to the Court for Review and to be Sealed for Appellate Review, If Necessary” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion.

DATED: 9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 533

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO COMPEL ALL STATE
AGENTS TO TURN OVER TO THE
PROSECUTING ATTORNEYS AND
TO ADVISE THEM OF ALL
INFORMATION ACQUIRED DURING
THE COURSE OF THE
INVESTIGATION OF THIS CASE

“Defendant’s Motion to Compel All State Agents to Turn Over to the Prosecuting Attorneys and to Advise Them of All Information Acquired During the Course of the Investigation of This Case” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant’s Motion but only to the extent that such information is subject to disclosure under Ohio Criminal Rule 16 and Brady v. Maryland (1963), 373 U.S. 83.

DATED: 9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 534

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON.

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO PROHIBIT DEATH-
QUALIFICATION OF POTENTIAL
JURORS UNLESS AND UNTIL THE
PROSECUTION HAS SHOWN
PROBABLE CAUSE THAT THE
CASE WILL PROCEED TO
MITIGATION

“Defendant’s Motion to Prohibit Death-Qualification of Potential Jurors unless and until the Prosecution has Shown Probable Cause that the Case will Proceed to Mitigation” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion.

DATED:

9/0/02

John M. Stuard

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 535

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IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	
)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION TO PROHIBIT STATE
	)	FROM USING PEREMPTORY
Defendant	)	CHALLENGES TO EXCLUDE
	)	JURORS WHO EXPRESS
	)	CONCERNS ABOUT CAPITAL
	)	PUNISHMENT

“Defendant’s Motion to Prohibit the State from Using Peremptory Challenges to Exclude Jurors Who Express Concerns About Capital Punishment” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion.

DATED: 9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION REQUESTING

MITIGATION PHASE

INSTRUCTIONS ON REMNANT

DOUBT ABOUT GUILTY AND

MERCY AS MITIGATING

FACTORS

“Defendant’s Motion Requesting Mitigation Phase Instructions on Remnant Doubt about Guilt and Mercy as Mitigating Factors” came before and was heard by this court on March 20, 2002.

The Court heard arguments of counsel and for good cause shown, herein DENIES Defendant's Motion.

DATED:

9/6/02

Wm. M. Stuart

HON. JOHN M. STUARD
Judge, Court of Common Pleas.

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 537

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	
	)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION TO REDUCE BIAS IN THE
	)	ANNUAL JURY LIST
Defendant)	

"Defendant's Motion to Reduce Bias in the Annual Jury List" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion.

DATED: _____

9/8/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 538

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

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CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY


MOTION FOR AN ALTERNATING
VOIR DIRE

“Defendant’s Motion for Alternating Voir Dire” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 539

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION FOR AN INCREASE IN THE NUMBER OF PEREMPTORY CHALLENGES

“Defendant’s Motion for an Increase in the Number of Peremptory Challenges” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion.

DATED:

9/6/02

John M. Steward

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 540

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

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)

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

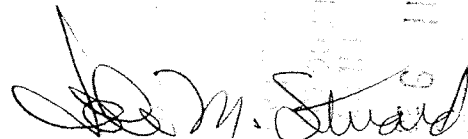
JUDGMENT ENTRY
MOTION FOR TRANSCRIPTS

“Defendant’s Motion for Transcripts” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion to the extent that it relates to daily transcripts. The Court will comply with Defendant’s request for other transcripts when made where reasonable and possible.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 541

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

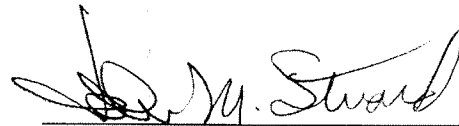
STATE OF OHIO,)	
	)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	DEFENDANT'S REQUEST FOR
	)	RULINGS ON ALL MOTIONS PRIOR
Defendant	)	TO COMMENCEMENT OF TRIAL

"Defendant's Request for Rulings on All Motions Prior to Commencement of Trial"
came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby
GRANTS Defendant's Motion to the extent that such rulings are required by law and do not
abuse the discretion of the Court.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 542

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

)
) CASE NO.01-CR-794

)
) JUDGE JOHN M. STUARD

)
) **JUDGMENT ENTRY**

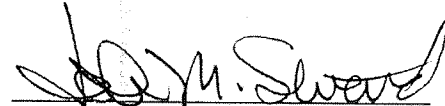
) MOTION FOR ALL MOTIONS TO
) BE HEARD ON THE RECORD
)

"Defendant's Motion for All Motions to be Heard on the Record" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion.

DATED: _____

9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 543

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

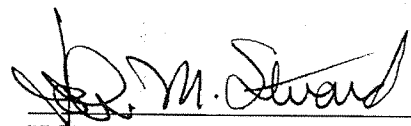
JUDGMENT ENTRY

MOTION TO INCREASE THE
BURDEN OF PROOF TO BEYOND
ALL DOUBT IN BOTH THE TRIAL
AND SENTENCING PHASES

“Defendant’s Motion to Increase the Burden of Proof to Proof Beyond All Doubt in Both the Trial and Sentencing Phases” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion.

DATED: 9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

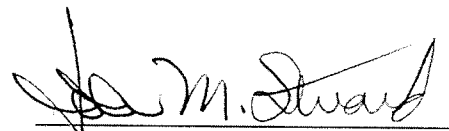
STATE OF OHIO,)	
)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION TO PROHIBIT THE
	)	FILMING, PHOTOGRAPHING OR
	)	VIDEOTAPING OF THE DEFENDANT
Defendant	)	WHILE IN THE COURTROOM

"Defendant's Motion to Prohibit the Filming, Photographing or Videotaping of the Defendant While in the Courtroom" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion in the event the Defendant becomes a witness at trial and DENIES Defendant's Motion to the extent that the Defendant is merely present in the courtroom.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY
MOTION FOR AN ORDER
REGULATING THE TRANSFER OF
DEFENDANT FROM JAIL TO THE
COURTROOM

"Defendant's Motion for an Order Regulating the Transfer of Defendant from Jail to the Courtroom" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, Defendant's Motion is hereby CONTINUED and taken under advisement by the Court as a determination of this matter is premature at this time. Prior to trial, the Court will conduct a conference with counsel for all parties and representatives of the Trumbull County Sheriff's Department regarding the procedure to be followed relating to this matter. The Sheriff's Department will be given discretion to use all reasonable means necessary to transport the Defendant between the jail and the courtroom.

FILED

DATED

JUL 09 2003

MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

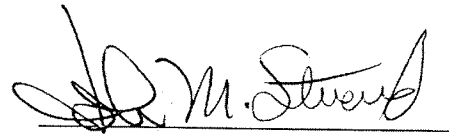
STATE OF OHIO,)	
)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION TO RESTRAIN PARTIES
	)	FROM DISCUSSING THE CASE
Defendant	)	WITH THE DEFENDANT

"Defendant's Motion to Restrain Certain Parties from Discussing the Case with Defendant" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion as to those discussions which are precluded by the Sixth Amendment to the U.S. Constitution.

DATED: _____

9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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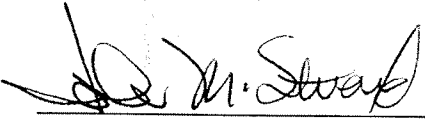
IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	
)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION IN LIMINE TO EXCLUDE
	)	PHOTOGRAPHS OF THE
Defendant	)	DECEDENTS

"Defendant's Motion in Limine to Exclude Photographs of the Decedents [sic]" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion as it is premature at the present time. The Court will consider this motion on an *ad hoc* basis at such time as it becomes appropriate.

DATED: 9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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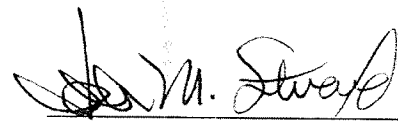
IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	
)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION FOR CLOSURE OF
	)	PRETRIAL HEARINGS AND TO
Defendant	)	INSULATE VENIRE AND JURY

"Defendant's Motion for Closure of Pretrial Hearings and to Insulate Venire and Jury"
came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby
DENIES Defendant's Motion as the Court is unaware of any required exceptions at this time.

DATED: 9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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0981 549

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO INSTRUCT THE JURY
THAT IT IS TO RETURN A VERDICT
OF DEATH ONLY AFTER THE
PROPER WEIGHING, AND
DETERMINING THAT DEATH IS
THE APPROPRIATE PUNISHMENT'

Defendant's "Motion to Instruct the Jury that it is to Return a Verdict of Death Only After the Proper Weighing, and Determining that Death is the Appropriate Punishment" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion.

DATED:

9/6/02

John M. Stuart

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff,

-VS-

NATHANIEL E. JACKSON,

Defendant.

CASE NO. :01-CR-794

JUDGE JOHN M. STUARD

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

On April 17, 2002, this matter came before this Court on the Defendant's *Motion to Suppress*. Specifically, the Defendant was seeking to suppress "all statements that the Defendant gave to law enforcement authorities, "as well as [a]nything derivative from that," also known as the fruits of the poisonous tree. (T.P. 4-5)

The State did not contest that the Defendant's *Motion to Suppress* was timely filed and that the State has the burden of establishing, by a preponderance of the evidence, that the statements made by the Defendant are admissible. Similarly, the Defendant did not challenge the lawfulness of the warrant or the probable cause presented in the Affidavit justifying the issuance of the arrest warrant.

During the hearing, the State offered the testimony of Detective Jeff Hoolihan, of the Warren Police Department and Sargent Paul Monroe of the Howland Township Police Department . The State also offered into evidence a total of five (5) exhibits, including a video taped statement (Exhibit "5") and the transcript thereof (Exhibit "4"). Only the Defendant testified in behalf of the defense.

When deciding a motion to suppress, the trial court is the trier of fact, resolves all

questions of fact, determines the weight to be given the evidence and the credibility to be accorded to each witness. *State v. Fanning* (1982), 1 Ohio St.3d 19. The court makes its determinations of fact based upon the totality of the circumstances surrounding the questioning or interrogation. *Fare v. Michael C.* (1979), 442 U.S. 707. The preponderance of the evidence standard applies when the voluntariness of a confession or compliance with *Miranda* requirements is challenged. *Lego v. Twomey* (1972), 404 U.S. 477; *State v. Beam* (1991), 77 Ohio App.3d 200, appeal dismissed by 62 Ohio St.3d 1500.

Based upon the testimony and the exhibits, the Court makes the following findings of facts:

1. Robert Fingerhut was the victim of a homicide, which had occurred on December 12, 2001, and in Howland Township, Ohio. (T.P. 11-12.).
2. On December 11, 2001, the Trumbull County Court of Common Pleas issued a warrant for the arrest of Nathaniel Jackson for his involvement in the aggravated murder of Robert Fingerhut.
3. Det. Hoolihan knew that the Defendant had a criminal record, and that he had been "just released from a prison facility." (T.P. 12-13.)
4. After officers learned of the Defendant's whereabouts from the Co-Defendant, Donna Roberts, Officers arrested the Defendant at Wirt Street, Youngstown, Ohio. He was handcuffed and placed into the back of a Youngstown Police vehicle. (T.P. 23).
5. The Defendant was advised that he had been arrested pursuant to an arrest warrant for aggravated murder. He was then placed into a Trumbull County Sheriff's vehicle and was advised of his *Miranda* rights. While he was being transported from Wirt Street to

- the Trumbull County Jail, the Defendant, made an unsolicited statement to Detective Hoolihan. The Defendant stated "man, I did not kill anybody, man,***." (T.P. 24.)
6. When they arrived at the Sheriff's Department, the Defendant was placed into the weight room for approximately one (1) hour. The Defendant did not ask for any attorney, was polite, very cooperative, very alert, and did not have any complaints during this time. (T.P. 29-32.)
 7. He did not appear to be nervous or intimidated as a result of being in police custody. (T.P. 29-32.)
 8. The Defendant was offered something to drink and given coffee and cigarettes. (T.P. 33-34.)
 9. At approximately 1:45 a.m., the Defendant was interviewed by Detective Hoolihan and Detective Sargent Paul Monroe of the Howland Township Police Department. This statement was summarized in State's exhibit No.2.
 10. At approximately 2:13 a.m., the Defendant was provided with a *Miranda* form, Exhibit 3, which was read by Detective Monroe to the Defendant. (T.P. 40-41.) As Detective Monroe read this form, which delineated the Defendant's Constitutional Rights, the Defendant initialed each line. He then signed the document which indicated "I waive my rights and agree to make a statement." This was recorded on video tape. (T.P. 42-3.)
 11. The Defendant gave a statement to Detective Hoolihan and Detective Monroe, which was also recorded on video tape, Exhibit 5, and which was transcribed in Exhibit 4.
 12. The video tape reveals that the Defendant, freely and voluntarily executed the *Miranda*

rights form. There is nothing on the tape to suggest that the Defendant was coerced or threatened. The tape further shows that the Defendant did not unequivocally ask that the questioning cease or that he be afforded an attorney.

13. There was no evidence, other than the Defendant's own self serving statement, that the Defendant was under the influence of any drugs or alcohol which would cause him not be understand the colloquy between Detective Hoolihan and him regarding his constitutional rights.
14. Detective Hoolihan testified that the Defendant was able to understand the nature of the conversation and respond. Hoolihan also testified that the Defendant did not smell of alcohol, and Detective Hoolihan did not notice anything about the Defendant was under any disability. (T.P. 25.)
15. The Defendant claims that he was not advised of his *Miranda* rights, that he informed Detective Hoolihan that he wanted an attorney, and that he did not want to answer anymore questions. He also states that he did not execute his rights waiver until the video taped statement was about over. (T.P. 139.) However, such statements are not supported by the evidence.
16. To the contrary, the Court specifically finds that the evidence clearly shows that the Defendant was advised of his *Miranda* rights at the onset of the video taped statement rather than the end. Therefore, the Court does not accord any weight to the Defendant's testimony. Furthermore, the Court finds that the testimony of Detective Hoolihan is more persuasive.

Based upon the preceding findings of fact, the Court makes the following conclusions

of law:

Initially, the Defendant challenged the actions of Det. Hoolihan as Hoolihan did not have an actual copy of the arrest warrant to serve on the defendant. However, Crim. R. 4(D)(3) clearly establishes that a law enforcement officer “need not have the warrant in the officer’s possession at the time of the arrest.” As such, this proposition is unsupported in the law, and not a basis upon which this Court can suppress the Defendant’s statements.

The Defendant next complains about Detective Hoolihan’s failure to give a written *Miranda* warning to the defendant. Likewise, the law does not require that Det. Hoolihan secure a written waiver of defendant’s *Miranda* rights prior to conducting a custodial interrogation. In *State v. Scott* (1980), 61 Ohio St.2d 155, the Ohio Supreme Court held, in paragraph one of the syllabus:

“An express written or oral statement of waiver of the right to remain silent or the right to counsel is usually strong proof of the validity of that waiver, but is not inevitably either necessary or sufficient to establish waiver. **The question is not one of form but rather whether the defendant in fact knowingly and voluntarily waived the rights delineated in *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L.Ed.2d 694 (*North Carolina v. Butler*, 441 U.S. 369, 99 S. Ct. 1755, 60 L. Ed.2d 286, 292, followed) (Emphasis added).** See also: *Connecticut v. Barrett* (1987), 479 U.S. 523.”

In making such a determination, a court is to look at the totality of circumstances, and consider:

(1) the age, mentality, and prior criminal experience of the individual; (2) the length, intensity, and frequency of the interrogation; (3) the existence of physical deprivation or mistreatment; and (4) the existence of threat or inducement. See: *State v. Edwards* (1976), 49 Ohio St.2d 31, 40.

Furthermore, the test to be applied by this Court regarding the sufficiency of a *Miranda* warning is whether that has been substantial compliance. *Duckworth v. Eagan* (1989), 492 U.S. 195.

Applying the foregoing, this Court concludes that the defendant's statement following his arrest in the police cruiser was voluntarily given. More specifically, the Defendant, while being in custody, was not subjected to an interrogation. He was merely being advised of the charges when he made his statement. As such it is admissible.

Even assuming that the conversation between Hoolihan and defendant could be construed as an "interrogation," under the "totality of circumstances test," Detective Hoolihan's testimony revealed that the defendant gave a knowing and voluntary statement after being advised of his *Miranda* warning. See *e.g. State v. Eley* (1966), 77 Ohio St.3d 174, 178.

The Court would also note that the initial conversation with police officers at the Trumbull County Sheriff's Department, was not recorded. This however does not affect the admissibility of that dialogue. It is important to note that the law does not require the police officers to re-advise the Defendant of his *Miranda* rights since Det. Hoolihan had already given a rights warning at 12:10 a.m. It does not matter that approximately one and one-half (1 1/2) hours had elapsed before the interrogation session was initiated at the Sheriff's Department. Indeed, in *State v. Gooey* (1989), 46 Ohio St.3d 20, *certiorari* denied, 499 U.S. 954 (1991), the Ohio Supreme Court found that under the totality of the circumstances, the initial warnings never became too stale so as to fail to protect the defendant from the subsequent custodial interrogation sessions. See also: *State v. Brewer* (1990), 48 Ohio St.3d 50, *certiorari* denied 498 U.S. 881 (1990) and *State v. Dixon* (Lucas 1995), 101 Ohio App. 3d 552.

Though the defendant testified at the Suppression Hearing in this matter that he did not receive a *Miranda* warning until the end of his interview, Exhibit No.4, and the transcript of the proceedings, Exhibit No.4, show otherwise.

Indeed, after reviewing the evidence, and in particular, the video tape statement of the conversation between Detectives Hoolihan and Monroe and the defendant on December 21, 2001 at 2:13 a.m. at the Trumbull County Sheriffs Department, it is evident that the Defendant was advised of his rights and voluntarily waived them. The transcription of the video taped conversation provides:

"Det. Hoolihan: Not too smokey in here, is it?"

"JACKSON: No, huh, uh.

"Det. Hoolihan: You want the door cracked?"

"JACKSON: It's alright.

"Det. Hoolihan: You got enough coffee and everything?"

"JACKSON: (No response)

"Det. Monroe: It's, uh, December 21st, the year 2001, at 2:13 a.m. OK, I'm gonna read your rights, Nate. Before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court. You have the right to talk to a lawyer for advise before we ask you any questions, and to have him with you during questioning. If you cannot afford a lawyer, one will be appointed for you before questioning, if you wish. If you decide to answer questions now, without a lawyer present, you still have the right to stop answering at any time until you have talked to a lawyer. I've read this statement, and my Constitutional Rights, and understand what my Rights are. I'm willing to make a statement and to answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made or used against me; no pressure, coercion of any kind has been used against me. I, therefore, waive my Rights, and agree to make a statement. Do you understand that, Nate?"

"JACKSON: Yeah."

Furthermore, the defendant was then asked to initial the lines on the rights form which signified that the rights were understood by the defendant. The video tape (Exhibit No.4)

showed not only that the defendant was given his rights and understood them, it portrayed him anxiously wanting to tell the officers that he did not mean to kill the victim. Specifically, the Video Tape Transcript reads at pages 1-2:

"Det. Monroe: Could you look this over? Put your initials on each one of these lines, sign it down here. Make some room here ***. At the end of each little line here, put your initials. That means the form was read and showing that you understand it, okay?

"JACKSON: Uh-huh ***

"Det. Hoolihan: And I need your signature here. You left-handed or right-handed?

"JACKSON: Left-handed.

"Det. Hoolihan: Okay.

"JACKSON: And, I didn't mean to do this shit, man ***. I really didn't mean to do that shit, man.

"Det. Hoolihan: You have any questions regarding your Rights?

"JACKSON: I just didn't mean to do it, man.

"Det. Hoolihan: Okay.

"JACKSON: I didn't, man; I'm sure I didn't, man. Sorry, man.

After waiving his rights and volunteering to the detectives that he "didn't mean to do it" (Trans. p. 2), the defendant hesitated and in part asserted; **"I told you, I told you *** I don't even like talking about it *** 'cause it ain't gonna, you know, it ain't gonna to bring, ain't gonna bring the man back."** (Emphasis added) Det. Monroe then asked the defendant to go over the events that occurred on December 11, 2001. (It is important to note that the defendant was hesitant to talk at that time because he had already told his story-i.e. "I told you, I told you."

In short the defendant, prior to turning on the video recoding, had given his version of the events and was reluctant to give it again.)

The defendant continued at pp. 2-3 :

“JACKSON: It’s over, man, you know what I’m saying; I say what I had to say, man. You know what I’m saying; that’s it, man. Anything else, man, you know, we just, man, you know, argue that, you know what I’m saying, whatever my attorney be, man, you know what I’m saying, ma, you know, right know, man, I’m just saying, you know, I mean, I ain’t, I ain’t fully ***

“Det. Monroe: I know***

“JACKSON: you know what I’m saying; I’m fucked up, man, you know?

“Det. Monroe: Alright, I know it’s tough for you. Could you, now that we got the camera rolling, could you just talk about this with me one more time, we got to clear it up, alright. This is your side. Robert picks you up, right?

“JACKSON: Uh huh.

“Det. Monroe: Okay, where’s he pick you up at?

“JACKSON: Down at, by C-Staples.

“Det. Monroe: Oh, C-Staples? Okay ***

“JACKSON: Yeah.

“Det. Monroe: I thought you were talking about another place.

“JACKSON: No, C-Staples is like a little eatery, man.

Obviously, the defendant, who seconds before had waived his constitutional rights under *Miranda* and was volunteering to officers that he did not mean to do it, was being ambiguous or equivocal with his responses. In one breath he says he didn’t mean to kill the victim and in the next breath he says “I told you” and “I don’t even like talking about it.” He was not clearly and unequivocally asserting that he did not want to talk to the officers anymore or that he

specifically wanted an attorney. In fact when Det. Monroe (on page 3 of the Transcript) asked:.
“Could you, now that we got the camera rolling, could you just talk about this with me one more time, we got to clear it up alright. This is Your side. Robert picks you up, right?” the defendant began to talk and freely repeated what he had told the officers earlier.

This issue has been previously in *State v. George Foster* (Dec. 21,2001), Trumbull App. No. 2000- T -0033, unreported, where the Eleventh District Court of Appeals affirmed the trial court’s denial of defendant’s motion to suppress statements because he had asked “twice if could go home and once whether he could have an attorney present at questioning.” At one point during the interrogation Foster had asked the interrogating detective, “Well, can I have a lawyer present?” The detective replied “If that’ s what you want, you know. It’s just that I’m not gonna go into anything we haven’t already talked about.” Foster replied “OK.”

This was similar to the situation the defendant faced when Det. Monroe said “Could you, now that we got the camera rolling, could you just talk about this with me one more time...” In *Davis v. U.S.* (1994),114 S.Ct. 2350, the defendant waived his rights to remains silent and to counsel, both orally and in writing. About one and one-half hours into the interview, he said “Maybe I should talk to a lawyer.” *Id.* at 2353. The U.S. Supreme Court stated:

“The right to counsel established in *Miranda* was one of a “series of recommended ‘procedural safeguards’*** [that] were not themselves rights protected by the constitution but were instead measures to insure that the right against compulsory self incrimination was protected.” If a suspect effectively waives his right to counsel after receiving the *Miranda* warnings, law enforcement officers are free to question him. But if a suspect requests counsel at any time during the interview, he is not subject to further questioning until a lawyer has been made available or the suspect himself reinitiates conversation. This “second layer of prophylaxis for the *Miranda* right to counsel,” is “designed to prevent police from badgering a defendant into waiving his previously asserted *Miranda* rights.” *Id.* at 2354-2355 (citations omitted).

The *Davis* court continued:

“The applicability of the “‘rigid’ prophylactic rule” of *Edwards* requires courts to “determine whether the accused *actually invoked* his right to counsel.” To avoid difficulties of proof and to provide guidance to officers conducting interrogations, this is an objective inquiry. Invocation of the *Miranda* right to counsel “requires, at a minimum, some statement that can reasonably be construed to be an expression of a desire for the assistance of an attorney. But if a suspect makes a reference to an attorney that is ambiguous or equivocal in that a reasonable officer in light of the circumstances would have understood only that the suspect *might* be invoking the right to counsel, our precedents do not require the cessation of questioning.” *Id.* at 2355 (citations omitted).

“***

“Rather, the suspect must unambiguously request counsel ***. Although a suspect need not “speak with the discrimination of an Oxford don,” he must articulate his desire to have counsel present sufficiently clearly that a reasonable police officer in the circumstances would understand the statement to be a request for an attorney. If the statement fails to meet the requisite level of clarity, *Edwards* does not require that the officers stop questioning the suspect. *Id.* (citations omitted).

The *Davis* concluded: “after a knowing and voluntary waiver of the *Miranda* rights, law enforcement officers may continue questioning until and unless the suspect clearly requests an attorney.” *Id.* at 2356. Furthermore, the Court declined to hold that officers ask clarifying questions of a suspect if the suspect makes an ambiguous or equivocal statement regarding counsel.

In *State v. Henness* (1997), 79 Ohio St.3d 53, the Ohio Supreme Court followed *Davis* when it held that the defendant’s statement “I think I need a lawyer because if I tell everything I know, how do I know I’m not going to wind up with a complicity charge?” was just as ambiguous as the statement made by the defendant in *Davis* at 63.

In *State v. Salinas* (Ohio App.11 Dist.1997), 124 Ohio App.3d379, the Eleventh District

Court of Appeals found the defendant's statement "Maybe I want a lawyer, maybe I should talk to a lawyer," to parrot the statement made by the defendant in *Davis* so as to render it to ambiguous to invoke the right to counsel. *Salinas*. at 386-387. See also: *State v. Wilkerson*, No.80 AP-295 (10TH Dist. Ct. App. Franklin, 12/31/80).

After responding affirmatively to Det. Monroe's request to tell his story on video tape one more time, the video recording demonstrates in a clear way that the defendant is freely and voluntarily giving a statement. In fact, many of his answers to questioning are very lengthy. Additionally having a video tape reproduction of the interrogation of the defendant on December 21, 2001, proves that the concerns of *Miranda* and its progeny of decisions to protect helpless persons from ruthless tactics of unscrupulous or overbearing police officers do not exist in this case. The defendant is definitely in control of his actions and words.

After his initial concern about giving a video taped account, the defendant talked at length for approximately 40 minutes before anything of legal significance occurred. At that point (Transcript p. 29) the following took place:

"Det. Hoolihan: Okay, but then she goes to Walgreens and brings the stuff to the room?

"JACKSON: (Mumbles) *** I, you know, I, I, I told you, you know what I'm saying, but what I had to say, man, I mean, I mean, I can't just sit here, you know what I'm saying, I mean, just, keep on, you know what I'm saying, backtracking, I mean, I don't even want to talk about it no more, man. I'm, I'm, I'm through with it, man, just, man, you know what I mean, police, you know, I mean, I, I talked to a lawyer or something, man, you know what I mean, , cause I, I mean, I ain't got time to just, just keep on, over and over, man, I'm, I'm through, man, I'm through, man, you know what I'm saying. I say, I mean, I, I ain't mean to do it, I'm sorry I did it, you know what I'm saying, I mean, but, I was left, I had no choice, man. And that's it. End of discussion, man.

"Det. Monroe: Anything else you want to say?

"JACKSON: (Inaudible) *** all I got to say, man, I didn't mean to do it, man. I mean, I mean, I'm sorry it happened.

"Det. Monroe: Nate, uh, these guys found a pair of gloves over at Shelia's house. Do you know anything about those?

"JACKSON: Nah ***.

"Det. Monroe: The pair of gloves got a hole in the finger. Those yours?

"JACKSON: Nah.

"Det. Monroe: Got a hole in this finger. Same one that you got shot in. Did you have those on when you got shot?

"JACKSON: I don't remember anything about doing that, you know what I'm -saying.

"Det. Monroe: You don't know anything about those gloves?

"JACKSON: (Mumble) ***.

"Det. Monroe: Is your blood on 'em?

"JACKSON: Shit, man. Why should my blood be on them?

"Det. Monroe: Well, if they're, if they're your gloves, and you got shot while you were wearing them, then blood would be on them, right?

"JACKSON: (No response)

"Det. Hoolihan: They would be powdery, you know, there would be gun, gunshot residue on the glove, too.

"JACKSON: (No response)

"Det. Monroe: Did you take the pot back off of Robert after you shot him?

"JACKSON: Man, I don't ***

"Det. Monroe: Or did you leave it on him?

"JACKSON: Fucked up and threw it, it was disgusting man, you know what I'm

saying, I mean ***

“Det. Monroe: Well, there’s, there’s more here that we didn’t get to ***.

“JACKSON: We, we just sum it up like I said, man, when, when I talk to my lawyer, man, you know what I’m saying. Other than that, man, you know, I mean ***.”

Again the defendant hesitates for a moment and continues to talk to officers. (See Trans. pp. 30-31). As such, when viewing the totality of questioning and the defendant’s attitude or demeanor is not unambiguously requesting counsel as required by *Davis, supra*. In fact, the Defendant continues with the dialogue than invoking his right to counsel or his right to remain silent. See *State v. Davis* (1997&,80 Ohio St.3d 3.11,320, holding that a waiver to the right to remain silent can be inferred when a suspect initiates conversation with the interrogating officer.

Furthermore, the video tape establishes that the Defendant did not invoke his right to remain silent or his right to counsel. Rather, the Defendant, when asked for clarification by the officer, continued to talk to the officer, and did so for more than one (1) hour. He was never mistreated or denied comforts such as cigarettes or something to drink.

Most significantly, his final minutes with officers were memorialized on video tape, and when the Defendant decided to end the conversation, he did so. It was apparent that the Defendant was in control of the decision making process of when and what to say. In the end (at page 38 of the transcripts) the words and body language led to him for the first time to invoke his constitutional right to stop questioning, Detective Hoolihan said to the Defendant: “Alright, you want to stop, then? The Defendant replied: “Yeah,” and the questioning stopped.

In conclusion, the based upon the totality of the circumstances, the court finds, by a preponderance of the evidence, that the Defendant was sufficiently advised of his *Miranda*

warnings, and voluntarily waived his rights. Furthermore, the Court does not find that the Defendant unambiguously and unequivocally requested counsel. Therefore, the Defendant's *Motion to Suppress* is overruled.

DATED: _____

9/10/02

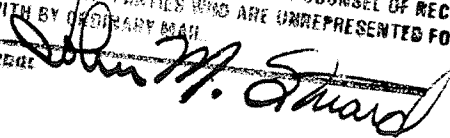


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

TO THE CLERK OF COURTS: YOU ARE ORDERED TO SERVE
COPIES OF THIS INDORSEMENT ON ALL COUNSEL OF RECORD
OR UPON THE PARTIES WHO ARE UNREPRESENTED FORTH-
WITH BY ORDINARY MAIL.

JUDGE



1-11-02-
Sent copies to:
Pros. D. Watkins
A. Consolane

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION FOR INSTRUCTION THAT
THE STATE BEARS THE BURDEN
OF PROVING THE ABSENCE OF
ANY MITIGATING FACTORS
OFFERED BY THE DEFENSE

Defendant's "Motion for Instruction that the State Bears the Burden of Proving the Absence of any Mitigating Factors Offered by the Defense" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion.

DATED: 9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

FILED
CLERK OF COURT
TRUMBULL COUNTY, OHIO
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IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

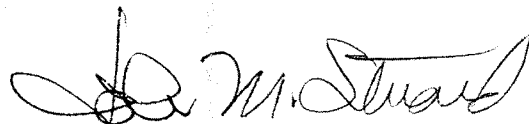
VOIR DIRE MEMORANDUM: THE
DEFENSE MUST BE ALLOWED TO
EXAMINE PROSPECTIVE JURORS
REGARDING THEIR VIEWS ON
CAPITAL PUNISHMENT PRIOR TO
THEIR EXCUSAL

Defendant's "Voir Dire Memorandum: The Defense Must Be Allowed to Examine Prospective Juror's Regarding Their Views on Capital Punishment Prior to Their Excusal" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby takes Defendant's Motion under advisement as consideration of this matter is premature at this time.

The Court takes this matter under advisement and will consider it at the appropriate time.

DATED: 9/6/05



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

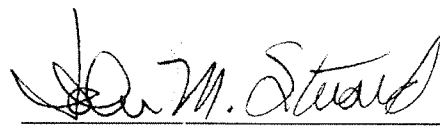
JUDGMENT ENTRY

MOTION TO PRECLUDE
READMISSION OF TRIAL PHASE
EVIDENCE AND EXHIBITS IN THE
PENALTY PHASE AND RELATED
PROSECUTORIAL COMMENT

Defendant's "Motion to Preclude Readmission of Trial Phase Evidence and Exhibits in Penalty Phase, and Related Prosecutorial Comment" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion as consideration of this matter is premature at this time. The Court takes this matter under advisement and will consider it at the appropriate time.

DATED: 9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 553

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO PROHIBIT THE
PROSECUTOR FROM ARGUING
AND THE COURT FROM GIVING
INSTRUCTIONS REGARDING
STATUTORY MITIGATING
FACTORS NOT RAISED BY THE
DEFENSE

Defendant's "Motion to Prohibit the Prosecutor from Arguing and the Court from Giving Instructions Regarding Statutory Mitigating Factors Not Raised by the Defense" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion.

DATED: 9/6/02



HON. JOHN M. STUARD

Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	
	)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION IN LIMINE TO PROHIBIT
	)	PREJUDICIAL ARGUMENTS AND
Defendant	)	THEMES AT THE CLOSING
	)	ARGUMENT OF THE PENALTY
	)	PHASE

Defendant's "Motion in Limine to Prohibit Prejudicial Arguments and Themes at the Closing Argument of the Penalty Phase" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion to the extent that the State may not make improper arguments prohibited by current existing law.

DATED: _____

9/6/02

[Signature of John M. Stuard]

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

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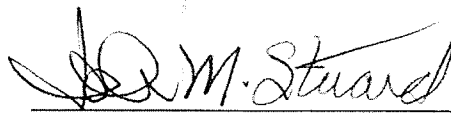
IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	
)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION TO ALTER DEFINITION
	)	OF MITIGATING CIRCUMSTANCES
Defendant	)	TO REMOVE REFERENCE TO
	)	REDUCING THE DEGREE OF
	)	BLAME AND TO REPLACE THIS
	)	WITH OTHER LANGUAGE AND TO
	)	SO LIMIT THE PROSECUTOR IN
	)	ARGUMENT

Defendant's "Motion to Alter Definition of Mitigating Circumstances to Remove Reference to 'Reducing the Degree of Blame' and to Replace this with Other Language, and to so Limit the Prosecutor in Argument" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion. However, Defendant's Motion is GRANTED to the extent that the Court will include and instruction given in State v. Holloway (1988), 38 Ohio St. 3d 239, which will say mitigating factors are not related to the Defendant's culpability but, rather, are those factors that are relevant to the issue of whether the Defendant should be sentenced to death."

DATED: 9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981

556

SEP 11 9 40 AM '02
CLERK OF COURT
TRUMBULL COUNTY, OHIO

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

)
) CASE NO.01-CR-794

)
) JUDGE JOHN M. STUARD

) **JUDGMENT ENTRY**

) MOTION TO INSTRUCT THE JURY

) THAT IT IS TO WEIGH ONLY THE

) AGGRAVATING CIRCUMSTANCES

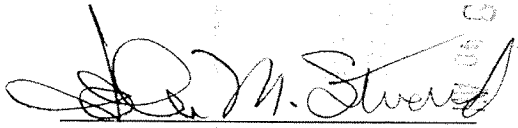
) AND NOT THE AGGRAVATED

) MURDER ITSELF

Defendant's "Motion to Instruct the Jury that it is to Weigh Only the Aggravating Circumstances, and not the Aggravated Murder Itself, in Determining Punishment and to so Limit the Prosecutor in Argument" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion. The Court will limit the prosecutor's argument to argument of the existing law on an *ad hoc* basis as necessary.

DATED: 9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

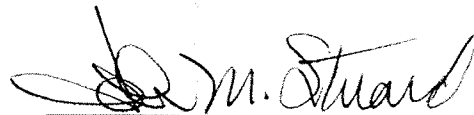
JUDGMENT ENTRY

MOTION TO PROHIBIT REFERENCE
TO NATURE AND
CIRCUMSTANCES OF THE
OFFENSE AS A FACTOR TO BE
CONSIDERED IN MITIGATION
OR IN INTRODUCTORY
LANGUAGE RESPECTING
MITIGATION

Defendant's "Motion to Prohibit Reference to Nature and Circumstances of the Offense as a Factor to be Considered in Mitigation or in Introductory Language Respecting Mitigation" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion.

DATED: 9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 558

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

VOIR DIRE MEMORANDUM:
VENIRE PERSONS WHO CANNOT
FAIRLY CONSIDER MITIGATING
EVIDENCE AND WHO WOULD
AUTOMATICALLY VOTE FOR
DEATH UPON A SHOWING OF
GUILT MUST BE EXCUSED

Defendant's "Voir Dire Memorandum: Venire persons Who Cannot Fairly Consider Mitigating Evidence and Who Would Automatically Vote for Death Upon a Showing of Guilt Must Be Excused" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion to the extent it relates to jurors who cannot follow the law and DENIES Defendant's Motion as it relates to other matters as consideration of those other matters is premature at this time. The Court takes this matter under advisement and will consider it at the appropriate time.

DATED: 9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0881 559

219
24

**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION IN LIMINE REGARDING
OTHER ACTS EVIDENCE

“Defendant’s Motion in Limine Regarding ‘Other Acts’ Evidence” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown the Court hereby GRANTS Defendant's Motion. However, if the State later determines that it wishes to introduce "other acts" evidence, the State will be required to give advance notice and request permission of the Court prior to presenting evidence of other crimes, wrongs or acts committed by the Defendant providing an opportunity for an *in camera* inspection prior to admission.

DATED:

9/6/02

L. M. Steward

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0481 560

**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO RECORD ALL
SIDE BAR PROCEEDINGS

Defendant's "Motion to Record All Side Bar Proceedings" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion.

DATED:

9/6/02

D. M. Steward

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0901 561

**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION FOR A RULE 104

HEARING

“Defendant’s Motion for a Rule 104 Hearing” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown the Court hereby DENIES Defendant's Motion to the extent that it will not hold a hearing to determine the relevancy and admissibility of all evidence the State intends to use at trial. This Court will hold hearings regarding specific evidence prior to the commencement of trial in compliance with the Ohio Rules of Criminal Procedure as required.

DATED:

9/6/02

D. M. Stuart

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

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CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

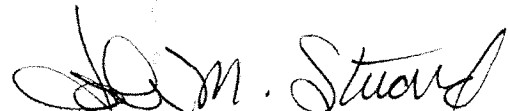
MOTION FOR INDIVIDUAL
SEQUESTERED VOIR DIRE

"Defendant's Motion for Individual Sequestered Voir Dire" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion except that the jury venire may be individually questioned regarding pre-trial publicity relative to this case and their attitudes regarding capital punishment.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION FOR A COMPREHENSIVE VOIR DIRE

“Defendant’s Motion for a Comprehensive Voir Dire Pursuant to Morgan v. Illinois, 504 U.S. 719 (1992)” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown the Court hereby GRANTS Defendant's Motion to the extent that the Court reserves its right to exercise its discretion to limit such questioning of potential jurors if it deems so necessary upon a determination that voir dire has become unreasonable.

DATED:

9/6/02

De M. Straub

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)


IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)
)
 Plaintiff) CASE NO.01-CR-794
)
 -vs-) JUDGE JOHN M. STUARD
)
) **JUDGMENT ENTRY**
 NATHANIEL E. JACKSON,) MOTION FOR A SECOND VOIR
) DIRE OF THE JURY IF THE
 Defendant) DEFENDANT IS FOUND GUILTY
) AT THE TRIAL PHASE

“Defendant’s Motion for a Second Voir Dire of the Jury if the Defendant is Found Guilty at the Trial Phase” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion.

DATED: 9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	
	)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION TO PROHIBIT PROSECUTOR
	)	FROM COMMENTING ON DEFENDANT'S
	)	UNSWORN STATEMENT
Defendant)	

"Defendant's Motion to Prohibit Prosecutor from Commenting on Defendant's Unsworn Statement" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion except for matter upon which the State may comment as permitted under current existing law. The State will approach the Court and obtain prior approval in advance of making any such statement.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

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CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

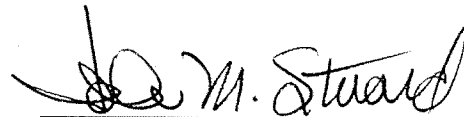
MOTION TO PERMIT DEFENSE TO
ADMIT ALL RELEVANT EVIDENCE
AT MITIGATION PHASE

“Defendant’s Motion to Permit Defense to Admit All Relevant Evidence at Mitigation Phase” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant’s Motion to the extent that the Court retains jurisdiction to determine whether evidence submitted is relevant under the law.

DATED: _____

9/6/02



HON. JOHN M. STUARD

Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981

567

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

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CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

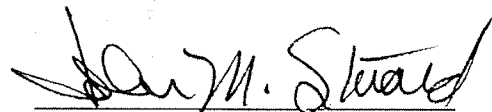
MOTION FOR SEQUESTRATION
OF JURORS FOR DURATION
OF TRIAL

“Defendant’s Motion for Sequestration of Jurors for Duration of Trial” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion except that the Court will order sequestration of jurors at appropriate times and as required by law.

DATED: _____

9/6/02



HON. JOHN M. STUARD

Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	
	)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION FOR DISCLOSURE OF THE
	)	TRANSCRIPT OF PROCEEDINGS
Defendant	)	BEFORE THE GRAND JURY

"Defendant's Motion for Disclosure of the Transcript of Proceedings Before the Grand Jury" came before and was heard by this court on March 20, 2002.

The State responded with opposition to Defendant's Motion since the Defendant has shown no "particularized need." Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion. The State will provide to the defense any exculpatory material which comes into its possession to the extent that such information is subject to the requirements of Ohio Criminal Rule 16 and Brady v. Maryland (1963), 373 U.S. 83.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO EXTEND TIME TO
FILE MOTIONS

“Defendant’s Motion to Extend Time to File Motions” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion except that the Court may grant leave to extend time to file specific motions for good cause shown as determined by the Court.

DATED:

9/6/02

W. M. Stuart

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 570

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

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CASE NO.01-CR-794 ✓

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION FOR DISCLOSURE OF
WITNESS STATEMENTS PRIOR
TO TRIAL

“Defendant’s Motion for Disclosure of Witness Statements Prior to Trial” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion. To the extent that the information is subject to requirements of Ohio Criminal Rule 16 and Brady v. Maryland (1963), 373 U.S. 83, the State will provide to the defense any exculpatory material which comes into its possession. Otherwise, the defense will receive discovery of witness statements, on an *in camera* basis, as the witnesses testify at trial.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 571

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

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CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

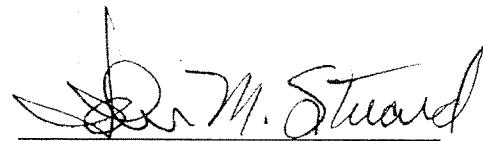
MOTION IN LIMINE TO PROHIBIT
DISPLAY OF EXHIBITS

“Defendant’s Motion in Limine to Prohibit Display of Exhibits” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant’s Motion as to photographs and displays to the extent that photographs (and videotapes) will not be admitted until the Court has had an opportunity to view and make a determination as to relevancy. This matter may be revisited as to specific items at the appropriate time.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0961 572

**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

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CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO PERMIT DEFENDANT
TO APPEAR IN CIVILIAN
CLOTHING AT ALL COURT
PROCEEDINGS

“Defendant’s Motion to Permit Defendant to Appear in Civilian Clothing at All Court Proceedings” came before and was heard by this court on March 20, 2002.

The State responded with no objection to Defendant's Motion. For good cause shown, the Court hereby DENIES Defendant's Motion to the extent that the Defendant appears before the Court only and GRANTS Defendant's Motion to the extent that the Defendant appears before the Jury.

DATED:

9/6/02

Wm. M. Shaw

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0901

579


IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)
)
Plaintiff) CASE NO.01-CR-794
)
-vs-) JUDGE JOHN M. STUARD
)
NATHANIEL E. JACKSON,) **JUDGMENT ENTRY**
) MOTION TO PROPERLY PRESERVE
) AND CATALOG ALL PHYSICAL
Defendant) EVIDENCE

“Defendant’s Motion to Properly Preserve and Catalog All Physical Evidence” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion. To the extent that the information is subject to requirements of Ohio Criminal Rule 16 and Brady v. Maryland (1963), 373 U.S. 83, the State will provide to the defense any exculpatory material which comes into its possession.

DATED: 9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

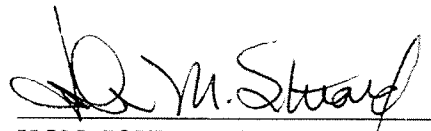
STATE OF OHIO,)	
	)	CASE NO.01-CR-794
Plaintiff)	
	)	JUDGE JOHN M. STUARD
-vs-)	
	)	JUDGMENT ENTRY
NATHANIEL E. JACKSON,	)	MOTION FOR DISCLOSURE OF
	)	REBUTTAL WITNESSES
Defendant)	

"Defendant's Motion for Disclosure of Rebuttal Witnesses" came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby GRANTS Defendant's Motion. The State will provide a supplemental witness list including the names of witnesses which the State reasonably anticipates to call at trial or on rebuttal.

DATED: _____

9/6/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0981 575

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION IN LIMINE TO LIMIT THE
STATE'S ARGUMENT AT
MITIGATION TO THE
AGGRAVATING CIRCUMSTANCES
PROVEN AT THE TRIAL PHASE

“Defendant’s Motion in Limine to Limit the State’s Argument at Mitigation to the Aggravating Circumstances Proven at the Trial Phase” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion except that the Court will consider objections at the appropriate time on an *ad hoc* basis.

DATED:

9/6/02

Rev. M. Stuart

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

681 576

**IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,

Plaintiff

-VS-

NATHANIEL E. JACKSON,

Defendant

CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

MOTION TO ALLOW

OBJECTIONS AT TRIAL AND TO

REQUIRE A STATEMENT OF

REASON FOR OVERRULING SAME

ON THE RECORD

“Defendant’s Motion to Allow Full Statement of Defense Objections at Trial and to Require a Statement of Reason for Overruling Same on the Record” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant's Motion, subject to Counsel's request at trial for the specific reason given for the Court's ruling on an objection.

DATED:

9/6/02

W. M. Steward

HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0984 577

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,

Plaintiff

-vs-

NATHANIEL E. JACKSON,

Defendant

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✓
CASE NO.01-CR-794

JUDGE JOHN M. STUARD

JUDGMENT ENTRY

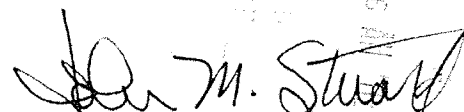
MOTION TO REQUIRE THE JURY
TO ARTICULATE THE METHOD
WHICH IT WEIGHS THE BY
AGGRAVATING AGAINST THE
MITIGATING CIRCUMSTANCES

“Defendant’s Motion to Require the Jury to Articulate the Method by which It Weighs the Aggravating Against the Mitigating Circumstances” came before and was heard by this court on March 20, 2002.

Upon hearing arguments of counsel and for good cause shown, the Court hereby DENIES Defendant’s Motion.

DATED: _____

9/6/02



HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor’s Office
Ohio Public Defenders Office (Trumbull Co. Branch)

0581 578

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,	)	CASE NO. :01-CR-794 ✓
)	
Plaintiff,	)	JUDGE JOHN M. STUARD
)	
-vs-	)	JUDGEMENT ENTRY
)	
NATHANIEL E. JACKSON,	)	DEFENDANT'S MOTION FOR
	)	SPECIFIC DISCOVERY
Defendant.)	

The Defendant, in the instant motion is requesting that the State provide to him "all of the expert opinions to be elicited and given by Dr. Humphrey D. Germaniuk, M.D., Forensic Pathologist, derived from his personal observations at the scene, any other information regardless of source, and his medical findings." However, the Court does not find the Defendant's motion to have merit.

Initially, the Defendant is unable to provide this Court with any authority to support his proposition either by Rule or case law. To the contrary, Crim R. 16 provides in relevant part:

"(B) Disclosure of Evidence by Prosecuting Attorney.

"(1) Information subject to disclosure.

"(d) Reports of examinations and tests. Upon motion of the defendant, the court shall order the prosecuting attorney to permit the defendant to inspect and copy or photograph any results or reports of physical or mental examinations, and the scientific tests or experiments, made in connection with the particular case, or copies thereof, available to or within the possession, custody or control of the state, the existence of which is known or by the exercise of due diligence may be come known to the prosecuting attorney."

This is the sole provision in the Criminal Rules with respect to the discovery of expert opinions. The language contained therein does not contain any provision for producing that

which the Defendant seeks. To the contrary, the State directs the Court's attention to *State v. Mullen* (Aug 12, 1994), Meigs App. No. 93 CA 518, 1994 WL 465801 (Ohio App. 4 Dist.), unreported, wherein Judge Harsha, in the concurring opinion noted:

"As appellant correctly argues, it is difficult to test expert testimony at trial without advance notice and preparation. In recognition of this impediment to the accurate determination of guilt, Fed.R.Crim.P. 16 has been amended to broaden discovery of expert opinion testimony. The 1993 amendments added subdivisions which require disclosure of a written summary of the expert testimony which a party intends to use at trial. The summary must describe the witnesses' opinions, the bases and the reasons therefor, and the witnesses' qualifications."

"However, regardless of personal perspectives, I am forced to admit the obvious, i.e., that Ohio Crim.R. 16 does not contain similar discovery requirements." *Mullen, supra.*

Quite simply the Defendant is seeking that which is required under the Federal Rules of Criminal Procedure. However, as noted, the Ohio Criminal Rules do not provide for that which counsel for the Defendant is requesting. The rule only requires the State to produce "scientific tests or experiments." Other than those provided to the Defendant, Dr. Germaniuk has not performed any other such tests or experiments.

The majority noted in *Mullen*:

"In the case sub judice, we are similarly unwilling to state that Ferguson's calculations constitute a "scientific test." Although Ferguson utilized mathematics rather than general common sense, he performed work using the laboratory test results.

"In *State v. Davis* (1991), 62 Ohio St.3d 326, 341, 581 N.E.2d 1362, 1376, the court commented:

"Most, if not all, scientific tests involve objective measurements, such as blood or genetic typing or gunshot residue."

"In the case sub judice, Ferguson did not analyze blood or gunshot residue. He

did not collect any data using the scientific method. Ferguson merely ran calculations on the results of the laboratory tests. Mullen.


As such, the *Mullen* Court did not find error in allowing the testimony based upon observations made by Ferguson, a toxicologist concerning his determination of the amount of drug in defendant's system at the time her blood was sampled. Applying the same rationale to the instant action, the State is not required to provide to the Defendant "all of the expert opinions to be elicited and given by Dr. Humphrey D. Germaniuk, M.D., Forensic Pathologist, derived from his personal observations at the scene, any other information regardless of source, and his medical findings."

Independently as the Staet noted it has provided the Defendant with a list of its witnesses. The Defendant is free to contact Dr. Germaniuk and inquire of him concerning the issues which he is seeking opinions or hypotheticals.

Parenthetically, the Court would note that the Rules of Evidence may provide a basis upon which the Defendant may raise a challenge to the testimony of the witness, but such an objection at this juncture in the proceeding is premature.

Therefore, the Defendant's *Motion for Specific Discovery* is denied.

DATED: 9/10/02


HON. JOHN M. STUARD
Judge, Court of Common Pleas

cc: Trumbull Co. Prosecutor's Office
Ohio Public Defenders Office (Trumbull Co. Branch)

9-11-02-
Sent copies to:
Pros. D. Watkins
7. Consolidating

TO THE CLERK OF COURTS: YOU ARE ORDERED TO SERVE
COPIES OF THIS ORDER ON ALL COUNSEL OF RECORD
OR UPON THE DEFENDANT IF NOT REPRESENTED FORTH-
WITH BY COUNSEL.

JUDGE



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OHIO

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO,)	CASE NO. :01-CR-794
)	
Plaintiff,	)	JUDGE: :JOHN M. STUARD
)	
-vs-	)	STATE'S SEVENTH
	)	SUPPLEMENTAL RESPONSE TO
NATHANIEL E. JACKSON,	)	DEFENDANT'S REQUEST FOR
	)	DISCOVERY
Defendant.)	

Now comes the Plaintiff, the State of Ohio, by and through the Prosecuting Attorney of Trumbull County, Ohio, and submits the following in answer to the *Defendant's Request For Discovery* pursuant to Rule 16 of the Ohio Rules of Criminal Procedure:

1.) Pursuant to Crim. R. 16 (B)(1)(d), the State responds as follows: The state has provided copies of the following reports to Counsel for the Defendant:

Report of Donna L. Rose, Dated 12/14/01, numbered 259.

2.) Pursuant to Crim. R. 16 (B)(1)(e), the State intends to call the following witnesses, whose criminal record, if any, is as follows:

The State is providing to counsel for the Defendant a supplemental witness list, numbered 260.

3.) Pursuant to Crim.R. 16 (B)(1)(c), the State is providing to counsel for the Defendant

A.) Black and white copies of color photographs, which counsel for the Defendant may make arrangements to view at the Trumbull County Prosecutor's Office, numbered pages 261-266.

Respectfully Submitted,
STATE OF OHIO, by



DENNIS WATKINS (#0009949)
Trumbull County Prosecuting Attorney

and



CHARLES L. MORROW (#0040575)
Assistant Prosecutor
Trumbull County Prosecutor's Office
160 High Street, NW
3rd Floor Administration Bldg.
Warren, Ohio 44481
(330)-575-2426

CERTIFICATION

This is to certify that a copy of the foregoing *State's Fourth Supplemental Response to Defendant's Request for Discovery* was delivered to counsel for the Defendant, this September 16, 2002.



CHARLES L. MORROW (#0040575)
Assistant Prosecuting Attorney